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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,030	01/26/2004	Martin E. Pruitt	26681RE1	1987
23589	7590	07/18/2007		
HOVEY WILLIAMS LLP 2405 GRAND BLVD., SUITE 400 KANSAS CITY, MO 64108			EXAMINER TORRES, ALICIA M	
			ART UNIT 3671	PAPER NUMBER
			MAIL DATE 07/18/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/765,030	Applicant(s) PRUITT ET AL.	
	Examiner Alicia M. Torres	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32, 40, 41, 43 and 46-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8, 11-19, 23-32, 40, 41, 43 and 46-51 is/are allowed.
- 6) ☒ Claim(s) 9, 10 and 20-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9, 10, 20, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Savoie CA 2166671 in view of Hale et al. 2,906,077.

Savoie discloses the claimed device as shown in the marked up figure on the following page. As shown in Fig. 4, the conveying roller has helical ribs, is in the discharge opening and is not wider than the cutters.

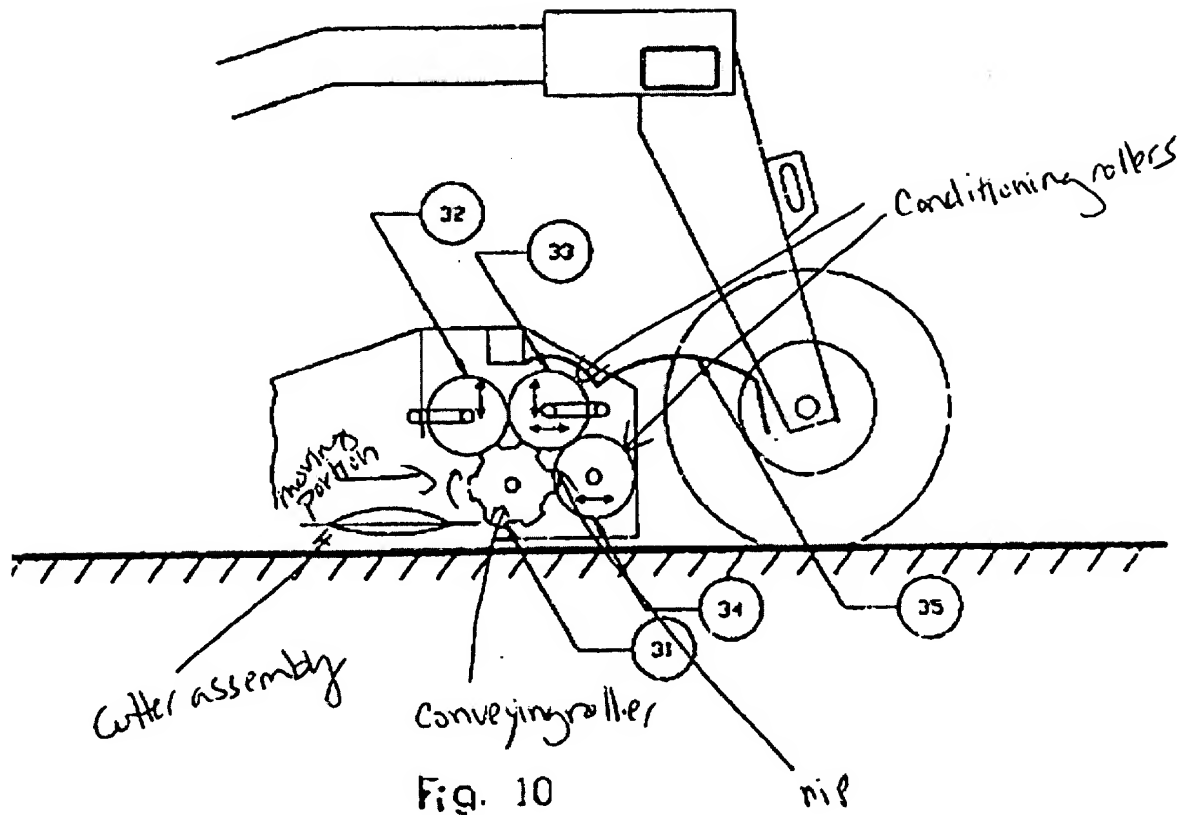


Fig. 10

However, Savoie fails to disclose wherein the conveying roller has an outermost diameter which is smaller than the outermost diameter of the lower conditioning roll, as per claim 9; and

Wherein a conveying roller axis is generally vertically aligned with the plane of the cutting zone, as per claim 10.

Hale et al. discloses a similar device wherein the outermost diameter of the conveying roller (65) is smaller than the outermost diameter of the lower conditioning roll (50); and

Wherein a conveying roller (65) axis is generally vertically aligned with the plane of the cutting zone (M, see Figure 4).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the conveying roller diameter of Hale et al. on the device of

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Savoie since it would provide more space efficiency when the conveying roller (65) is retracted into the agricultural implement.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Savoie and Hale et al. as applied to claim 20 above, and further in view of van der Lely et al. 4,476,666.

The device is disclosed as applied above. However, the combination fails to disclose wherein the series of cutters include multiple of oppositely rotating cutters.

Van der Lely et al. discloses a similar cutting device including oppositely rotating cutters (8).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the oppositely rotating cutters of van der Lely et al. on the device of Savoie and Hale et al. in order to prevent clogging that would adversely affect the mowing operation.

Response to Arguments

While the Specification of the invention states that the conveying roller is of a diameter less than that of the lower conditioning roll, the Specification is silent in discussion of the criticality that this limitation provides. Lacking any criticality or unexpected results, Hale et al. would be a fair combination to make with Savoie et al. to arrive at the invention since Hale et al. shows that it was known in the art as early as September 1959 to provide a conveying roller having a smaller diameter than that of the conditioning rolls on an agricultural implement similar to Savoie et al. and that of the invention.

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While the applicant argues in the Remarks that the invention addresses problems such as poor cut-off, it appears the apparatus arrived at by Savoie et al. and Hale et al. would solve the same problems. It appears that the applicant's arguments, regarding the problems addressed by the invention, which were not mentioned in the Specification, could have been made in hindsight.

Additionally, while the applicant argues that Hale et al. discloses an apparatus for cutting one swath while conditioning a previous swath, it is only the conditioning structure of Hale et al. that is used to modify Savoie et al. Since Savoie discloses the mowing structure, the mowing structure of Hale et al. is not relevant.

Allowable Subject Matter

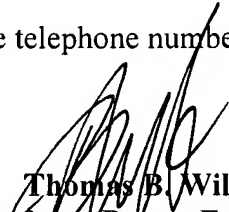
Claims 1-8, 11-19, 23-32, 40, 41, 43, 46-51 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Friday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 571-272-3600. The fax number for this Group is 571-273-8300.


Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671

AMT July 5, 2007